

TO: Assessing Officers
Equalization Directors

FROM: State Tax Commission

Bulletin No. 2 - January 11, 1984
Commercial Forest Act
Payments - State School Aid Fund

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

COMMERCIAL FOREST ACT:	Withholding of state commercial forest acreage payments for deposit in the state school aid fund
NATURAL RESOURCES, DEPARTMENT OF:	Authority to withhold state commercial forest acreage payments due counties and townships
STATE SCHOOL AID FUND:	Deposit of commercial forest acreage specific taxes therein

The Department of Natural Resources is not authorized by law to withhold to the credit of the state school aid fund any state commercial forest acreage payments required to be made to counties and townships pursuant to the commercial forest act, 1925 PA 94.

Opinion No. 6190

OCT 10 1983

Ronald O. Skoog, Director
Department of Natural Resources
Stevens T. Mason Building
Lansing, Michigan 48909

My opinion has been requested on the following question:

Does the Department of Natural Resources (DNR) have the authority to withhold from counties and townships state commercial forest acreage payments for deposit in the state school aid fund in the State Treasury since approximately 75 percent of such payments must be returned to the state school aid fund?

The commercial forest act, 1925 PA 94; MCLA 320.301 et seq; MSA 13.221 et seq, provides for the establishment and specific taxation of commercial forests.

In 1925 PA 94, supra, § 5, the Legislature has removed commercial forest lands from the ad valorem general property tax rolls and imposed a specific tax of 30 cents per acre to be levied upon each acre of such land. The specific tax is collected from the landowner by the township treasurer and the proceeds are to be disbursed by the township treasurer as provided in 1925 PA 94, § 5, supra.

In addition, a payment of 70 cents for each acre of commercial forest is made annually on December 1 by the State Treasurer, upon certification of acreage by DNR, to the appropriate county treasurer for distribution as provided by 1925 PA 94, supra, § 6.

Withdrawal of commercial forest land penalties and stumpage fees are collected by the DNR from landowners withdrawing their lands from listing under the Act. The penalties and fees are annually transmitted by the DNR to the treasurer of the township in which the lands are situated. The treasurer is to disburse these receipts to public agencies and accounts in the same manner and in the same proportion as ad valorem general property taxes are disbursed. 1925 PA 94, supra, § 7.

Stumpage and yield taxes are collected bi-annually by the DNR from landowners cutting forest products on commercial forest lands. These collections are bi-annually remitted by the DNR to the treasurer of the township in which the harvesting operation was conducted for distribution in the same proportions as ad valorem general property taxes are disbursed. 1925 PA 94, supra, § 9.

Notwithstanding the provisions of 1925 PA 24, §§ 5, 6, 7 and 9, supra, 1925 PA 94, supra, § 7a provides:

"(1) If, and for the period which, the state school aid act, Act No. 94 of the Public Acts of 1979, as amended, being sections 388.1601 to 388.1772 of the Michigan Compiled Laws, is amended, or its successor act is enacted or amended to include a provision which provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required pursuant to subsection (2) to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the local school districts.

"(2) Beginning with levies or payments of the following revenues after the effective date of this section, in the case of local and intermediate school districts receiving state aid under sections 21, 27, 56, 62, and 81 of Act No. 94 of the Public Acts of 1979, as amended, being sections 388.1621, 388.1627, 388.1656, 388.1662, and 388.1681 of the Michigan Compiled Laws, all or a portion of the amount that would otherwise be disbursed to these school districts from the following revenue sources, as determined pursuant to a formula prescribed by the department of management and budget on the basis of the tax rate utilized to compute the amount of state aid for the school district, shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article 9 of the state constitution of 1963:

"(a) Revenues from that portion of the levy of a specific tax over 15 cents per acre pursuant to section 5.

"(b) Revenues from that portion of state payments in excess of 25 cents per acre which are made pursuant to section 6.

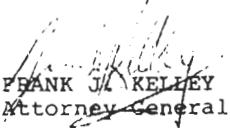
"(c) Revenues from remitted withdrawal penalties and fees imposed pursuant to section 7.

"(d) Revenues from remitted stumpage or yield tax collections made pursuant to section 9."

The Department of Treasury remits to treasurers local or state payments, withdrawal penalties and fees, and stumpage or yield tax collections, as required by 1925 PA 94, §§ 6, 7 and 9, supra. Local treasurers are, consistently with 1925 PA 94, § 7a(2), supra, returning to the State Treasurer from the payments¹ so made for deposit in the "school aid fund" those portions of such payments as would otherwise be disbursed to local and intermediate school districts but for their receipt of "state school aid."²

1925 PA 94, §§ 6, 7 and 9, supra, requires that the payments by the Department of Treasury be remitted to the appropriate township and county treasurers, and that those treasurers in turn make the requisite payment to the State Treasurer to the credit of the state school aid fund. The Legislature has not provided that the DNR may withhold any sums for direct credit of the state school aid fund. If changes in these procedures are desirable to promote efficiency and economy, this matter should be brought to the attention of the Legislature.

It is my opinion, therefore, that the Department of Natural Resources is not authorized to withhold any payments required to be made pursuant to 1925 PA 94, §§ 6, 7 and 9, supra, for the credit of the state school aid fund.


FRANK J. KELLEY
Attorney General

¹In addition thereto, portions of the specific tax in excess of 15 cents per acre collected from landowners under 1925 PA 94, § 5, supra, are required to be remitted to the State Treasurer.

²It should be noted that portions of the first 25 cents paid by the state under 1925 PA 94, § 6, supra, are disbursed to local and intermediate school districts and are not returned to the state despite the fact that such districts are recipients of "state school aid."